



Frequently Asked Questions: KBA Forensic Audit Reports

Updated February 14, 2012

Why was the KBA set up as an independent entity? Should it stay that way?

The Kansas Economic Growth Act of 2004 (KEGA) established the Kansas Bioscience Authority as an independent entity of the state for two primary reasons: 1) to ensure investments were based on merit; and, 2) to ensure the authority was not subject to the annual budget appropriations process, so that client companies can rely on KBA commitments, which typically span multiple years. The audit found the KBA has sound and rigorous investment process that is independent of inappropriate influence.

Who appoints the KBA board of directors? Who comprises the board?

KEGA outlines an 11-member board of directors that includes two non-voting members from the Board of Regents. A current roster of KBA board of directors, including appointment dates, appointing authority, and term expiration dates follows:

Appointing Authority	Appointee	Residency	Cong. District	Current term	Current term expires
Governor	John Carlin	In-state	Second	2	03/15/2012
Governor	Sandra A. J. Lawrence	In-state	Third	2	03/15/2012
Senate President	Ken Buchele	In-state	First	1	03/15/2015
Senate President	Bill Sanford	Out-of-state	N/A	2	03/15/2011
House Speaker	<i>Vacant</i>	N/A	N/A	N/A	03/15/2015
House Speaker	Earl McVicker	In-state	First	1	03/15/2015
Senate Minority Leader	Dan Watkins	In-state	Third	1	03/15/2014
House Minority Leader	<i>Vacant</i>	N/A	N/A	N/A	03/15/2014
Secretary of Commerce	Pat George	In-state	First	N/A	N/A
Board of Regents	Jerry Boettcher	N/A	N/A	N/A	N/A
Board of Regents	Kenny Wilk	N/A	N/A	N/A	N/A

What are the KBA's operating costs?

Since the KBA's inception in 2004 through Nov. 30, 2011, the authority has incurred approximately \$17 million in administrative expense. This calculates to less than 9% of funds received in that time period (\$196.7 million).



Why did the KBA build the Venture Accelerator? What was its cost?

The fundamental purpose of the Venture Accelerator is to serve as an incubator where Kansas helps jump-start early stage bioscience companies, in line with the imperatives of the Kansas Economic Growth Act (KEGA). As part of this mission, the KBA’s offices are within the incubator, making its business professionals readily accessible to tenants. The building opened in May 2011. One-third of the building’s leasable space is now occupied. A strong pipeline of early stage companies has expressed interest in leasing office and laboratory space.

The facility’s cost of \$285 per square foot (\$14.1 million total) compares favorably to comparable incubators with lab facilities, including the neighboring K-State Olathe Innovation Campus:

Project*	Type	Cost (\$/GSF)	Size (GSF)	LEED Rating	Year
KBA incubator	Bio research/offices	\$285	38,773	Gold	2011
Midwestern university lab	Bio/chemistry/offices	\$303	170,000	Cert. Equiv.	2010
Governmental lab	Bio/offices	\$347	62,000	Platinum	2011
Private Midwestern incubator	Bio research/offices	\$345 (inflation adjusted from \$244)	41,000	Silver	1999
Incubator in eastern U.S.	Bio research/offices	\$400	41,000	NA	2006
Midwestern university research building	Bio research/offices	\$358 (inflation adjusted from \$272)	212,200	NA	2004
Midwestern university research building	Bio/chemistry/offices	\$377	106,000	NA	2008
	average	\$344			

*projects are identified generically at the request of some of the project owners

Did the audit find conflicts of interest by the KBA board or staff in investment decisions?

No. Of the 175 investments made by the KBA since 2004, not a single instance of conflict of interest was found.



Why did the auditors claim a former board member “may have been in technical violation” of the KBA Conflicts of Interest policy?

Angela Kreps voted to approve the KBA Annual Operating Plan. A line item in that document was a marketing expense for the KBA to participate in the national BIO conference as part of a collaborative effort with other state organizations to promote Kansas as a good place to do business for bioscience companies. The KBA participated in the BIO event before Ms. Kreps’ term as a board member and has done so after. The auditors claim Ms. Kreps “may have committed a technical violation” of the conflicts of interest policy because Ms. Kreps’ employer, Kansas Bio (the Kansas state trade association for bioscience companies), coordinated the event on behalf of participating Kansas entities and the KBA check was therefore written to Kansas Bio. The KBA’s purpose in participating was to promote Kansas to bioscience companies, not to support Kansas Bio. Ms. Kreps did not personally benefit from the KBA’s participation in this trade show.

Did the audit determine if any funds were missing?

Every dollar was accounted for but the audit raised questions about \$5,832. The audit identified inadvertent double expense reimbursements to five former board members/employees. All but \$309 has already been reimbursed. Tom Thornton has also reimbursed the KBA for funds the audit found he had misspent on airfare and artwork.

Has the KBA spent \$700,000 for each job created as has been claimed?

No. The KBA makes investments through a number of targeted programs. One of those, the Expansion & Attraction Program, is primarily intended to create jobs in the short term. Through this program, the KBA has paid out approximately \$9.1 million and has generated 1,138 jobs, or \$8,700 per job. The average annual wage of these bioscience jobs is \$68,716, compared to the statewide average annual wage of \$39,290.

More important, the number of jobs created in the short-term is not the sole measure of the KBA’s success. As articulated in the Kansas Economic Growth Act of 2004, the KBA was established to grow a solid industry segment into a key part of the Kansas economy for generations to come. This requires making long-term investments in things such as the University of Kansas Cancer Center and the National Bio and Agro-Defense Facility (NBAF). While these investments have not yet created many jobs, over the long term they will be strong drivers of the Kansas economy.

Is the KBA putting a moratorium on new investments?

No. The KBA board of directors has not voted to institute a moratorium on new investments and will continue working to grow the bioscience economy in Kansas.

Can the KBA honor its investment commitments even though Gov. Sam Brownback is holding \$22 million in payments due to the KBA?

Yes. The KBA has enough cash on hand to fund existing commitments for about one year. However, withholding of funds from the KBA may create doubt about Kansas’ commitment to growing the bioscience industry in the state.



Why does the KBA have \$83 million in the bank?

The KBA receives funding quarterly from the Kansas State Treasurer’s office, based on the growth in state income taxes paid by existing bioscience workers. (This funding has been capped by the state at \$35 million annually since fiscal year 2009). The KBA board approves investments and grants to bioscience researchers and companies each quarter. Investment commitments are paid to grantees incrementally over time as specific milestones (such as jobs created, capital raised, etc.) are achieved. The funds received from the state but not yet paid to grantees are held in KBA bank accounts as cash and investments in money market funds and fixed income securities that earn interest and dividends.

Why are you paying former officers’ legal bills?

Indemnification of corporate directors, officers and employees, including advancement of legal fees pending the outcome, is a common corporate and governmental practice. The purpose of indemnification is to encourage the most qualified and capable individuals to serve in the capacity of officers and directors by reducing the threat of personal liability for their actions. Virtually all states have some form of indemnification statute. The KBA provides for indemnification of officers and directors in its Bylaws, which are substantially similar to the Kansas corporate indemnification statute K.S.A. 17-6305. At present, the KBA is required to advance the legal fees. However, under certain circumstances the KBA would have the right to stop paying and to seek reimbursement for the legal fees already advanced.

How many employees does the KBA have? How are KBA salaries determined?

A 2008 evaluation of the KBA by GSP Consulting, which was commissioned by Kansas, Inc., suggests the KBA should “maintain a reasonable staff level, for example, one FTE per \$5 million in active investments.” Based on the KBA’s active investments of \$163 million, GSP Consulting recommends 32 full time employees. The KBA operates as a very lean organization with far fewer employees than this recommendation. Of the KBA’s 21 staff members, 90% have a bachelor’s degree or above, 57% have master’s degrees or above, and 14% have doctorates. KBA staff members are recruited from the private sector and KBA tries to offer competitive wages in order to attract the best and brightest.

The audit found the KBA violated its own contract policy. How could this happen?

The audit report references \$571,828 in payments that violated KBA contract policies. The auditors made no judgments about the expenses themselves, and in fact found no expense for which there was not a clear business purpose. More than half of this total reflects instances where contracts existed but a signed copy was not in the file. The remainder was for services provided on an on-demand, invoiced basis rather than by contract (for example, IT services and print advertising insertion orders); monthly email hosting and telephone services; and other miscellaneous project expenses for which justification existed but a signed contract did not. While the auditors note that compliance with the policy had improved over time, the KBA is working to make further improvements.



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What is the KBA doing differently based on the audit findings?

The KBA has incorporated a number of suggestions made by the auditors, including:

- Established an anonymous hotline employees may use to report unethical, illegal, or irresponsible behavior.
- Made a demand for the return of inappropriate payments by Tom Thornton and inadvertent double payments. All but \$309 has already been received.
- Revised the executive assistant's job description to remove responsibility for personal tasks for the CEO or other executives.
- Reviewed the opinion of the Kansas Attorney General regarding the board's use of executive session and holding meetings outside Kansas. The AG supports the practices as undertaken by the KBA.
- Company credit cards are held only by the CEO and CFO or director of accounting.
- Mention of the Heartland Bioventures Advisory Board, which was disbanded, has been removed from the KBA website.
- KBA management and the board are considering further action on BKD's recommendations concerning:
 - Outcomes tracking and reporting
 - Procedures related to deal flow meetings and client company updates
 - Documentation and practices for contracts
 - Policy governing personal relationships
 - Potential civil action against Thornton if warranted
 - Documentation and procedures for reimbursing business-related expenses

Is the audit completed?

Yes. In its supplemental letter dated Feb. 7, 2012, BKD states, "In our professional judgment, continuation of the investigation is not likely to lead to any information which will change findings and conclusions in any material way, if at all. In addition, we believe the investment of additional time, effort and expense is not a wise or efficient use of resources."